



**An Coiste um Achomhairc  
Foraoiseachta**

**Forestry Appeals Committee**

**05 June 2020**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Our ref: FAC 222/2019**

**Subject: Appeal in relation to afforestation licence CN84331**

Dear [REDACTED]

I refer to the appeal to the Forestry Appeals Committee (FAC) against the decision by the Department of Agriculture, Food and Marine in respect of afforestation licence CN84331.

The FAC established in accordance with Section 14 A (1) of the Agriculture Appeals Act 2001 has now completed an examination of the facts and evidence provided by the parties to the appeal.

#### **Background**

Afforestation licence CN84331 was granted by the Department on 26 August 2019.

#### **Hearing**

A hearing of appeal 222/2019 was conducted by the FAC on 27 May 2020.

**FAC Members:** Mr Des Johnson (Chairperson), Mr Vincent Upton and Mr Pat Coman

#### **Decision**

The Forestry Appeals Committee (FAC) considered all of the documentation on the file, including application details, processing of the application by DAFM, the grounds of appeal and all submissions and observations before deciding to cancel the decision regarding the licence (Reference CN 84331).

The proposal is for afforestation on a site area of 3.84ha at Culleenanory, Co. Roscommon. The subject lands are in 3 plots with only two proposed for planting. Site preparation would include woody weed removal and mounding, and slit planting is proposed along with 250kg granulated rock phosphate and herbicide control. Soils are stated to be predominantly podzols and the elevation is 40.0m – 50.0m. The site is in a designated High Amenity Landscape. The site is in an area with significant areas of cutaway bog. It is a rural agricultural area with dispersed settlement pattern. There is a stream along all site boundaries and through plot 1. There is an ESB line with 60m corridor to the west of the main plot.

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In processing the application, the DAFM referred the file to Roscommon County Council and An Taisce. Both responded indicating concerns for water quality. The County Council referred to the soils as cutover peat, mineral and poorly drained. The response refers to an EPA river along the boundary of all plots and through plot 1 and suggests that there are no relevant watercourses on the site as suggested on the application but rather permanent rivers and that the relevant setbacks are required. While a revised Biomap was requested and provided there is no evidence provided to the FAC that this issue was resolved. An Taisce response states that the Curraghroe Stream is a tributary to Lough Ree SAC and SPA and that all necessary safeguards should be in place before approval.

The DAFM approved the Licence on 26 August 2019

There is a single appeal against the decision to approve the Licence. This states that, based on the information supplied it is not possible to grant approval in compliance with the requirements of the Habitats and EIA Directives. Reference is made to several Court judgments. It is contended that no proper assessment has been carried out and that there was no assessment of cumulative effects.

The FAC requested further information from DAFM in respect of procedures followed in the screening exercise carried out for appropriate assessment and details of other projects capable of giving rise to significant effects. In response the DAFM stated that Standards of Good Forestry Practice were not taken into account as measures designed to avoid or reduce effects on a Natura 2000 site, the proposed development is not capable of giving rise to a significant effect or effects on the integrity of any Natura 2000 sites because of (a) absence of any aquatic zone within or adjoining the afforestation and (b) distance, and qualifying interests of Natura sites. Nine Natura 2000 sites are listed along with their separation distances and qualifying interests. Details of other projects are given – including small scale domestic developments and forestry projects (including 13 Coillte felling licences in the last 3 years). It is stated that there is no potential for cumulative effects.

While the DAFM response to the FAC request for further information lists 9 Natura 2000 sites within 15km, together with their separation distances and qualifying interests, the FAC noted that the assessment of likely impacts on these sites is based on factors that include “the absence of any aquatic zone within or adjoining the project area”. The FAC is concerned that this contention is not correct, as a stream adjoins or is adjacent to all site boundaries and crosses through plot 1. This stream connects to Natura 2000 sites (Lough Forbes Complex SAC and Ballykenny-Fisherstown Bog SPA) albeit at a significant distance, but there are significant areas of cutaway bog along its route between the proposed site and these Natura 2000 sites. The likelihood of in-combination effects on Natura 2000 sites accounting for these areas of cutaway bog has not been satisfactorily assessed. Furthermore, the water setbacks as proposed in Plot 1 do not appear to meet the Environmental Requirements for Afforestation and are unlikely to be sufficient based on the status of water quality in this area and the observations made by referral bodies. This water course is marked on EPA and ordnance survey maps and identified by the County Council. It is not possible for the proposal to be amended at the appropriate assessment screening stage to include measures designed to mitigate impacts on Natura 2000 sites as the FAC considers would be required in this case. The FAC concluded that, in these circumstances, the DAFM has not carried out a satisfactory screening for appropriate assessment in accordance with the provisions of the Habitats Directive. Furthermore, in the absence of an assessment of cumulative impacts, including these areas of cutaway bog, and the appropriate design



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of mitigation measures, the FAC is concerned that the likelihood of impacts on water quality cannot be determined. For these reasons, the FAC has decided to cancel the decision to approve the Licence.

Yours sincerely,

**Pat Coman, on behalf of the Forestry Appeals Committee**

